

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DORMAN ANGEL, et al.,

Plaintiffs,

vs.

UNITED PAPERWORKERS
INTERNATIONAL UNION (PACE)
LOCAL 1967, et al.

Defendants.

CASE NO.
C-1-01-467

Deposition of: TOM STEWART
(via telephone)

Taken: By the Plaintiffs
Pursuant to Notice
Date: January 27th, 2005
Time: Commencing at 4:31 p.m.
Place: Jacobs, Kleinman, Seibel
& McNally Co., L.P.A.
2300 Kroger Building
1014 Vine Street
Cincinnati, Ohio 45202
Before: Jennifer Coats
Notary Public - State of Ohio

COPY

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1 APPEARANCES:

2 On behalf of the plaintiffs:

3 Mark J. Byrne, Esq.
 4 of
 5 Jacobs, Kleinman, Seible
 & McNally Co., L.P.A.
 6 2300 Kroger Building
 1014 Vine Street
 Cincinnati, Ohio 45202

7 On behalf of PACE International Union:
 8 James B. Robinson, Esq.

9 of
 10 Kircher, Robins & Welch
 1014 Vine Street, Suite 2520
 Cincinnati, Ohio 45202

12 On behalf of International Paper:

13 Vincent J. Miraglia, Esq.
 14 (via telephone)
 6400 Poplar Avenue
 Memphis, Tennessee 38197

16 On behalf of Smart Paper Company:

17 Charles P. Groppe, Esq.
 18 (via telephone)
 of
 19 Morgan, Lewis & Bockius, L.L.P.
 1111 Pennsylvania Avenue, NW
 Washington, DC 20004

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1 TOM STEWART

2 of lawful age, a witness herein, being first duly
 3 sworn as hereinafter certified, was examined and
 4 deposed as follows:

5 EXAMINATION

6 BY MR. BYRNE:

7 MR. MIRALGIA: This is Vincent Miralgia
 8 for International -- representing International
 9 Paper. This deposition is noticed under a 30B6
 10 notice from Mr. Byrne that was actually faxed
 11 to us this afternoon. While Mr. Stewart has
 12 done his best to prepare for this 30B6
 13 deposition, we object to the extent that it was
 14 sent at such a late date. So his preparation
 15 has certainly been limited but certainly he'll
 16 do the best he can considering the limited
 17 amount of preparation time that he has had. So
 18 that objection is noted for the record. If
 19 you -- go ahead, Mr. Byrne.

20 MR. BYRNE: I was going to wait until you
 21 were done with all of them, Vinny.

22 MR. MIRALGIA: That's enough for now,
 23 we'll see where you go.

24 MR. BYRNE: Just for the record, I wanted
 25 to state that you and I have been trying to

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1 work through these issues since December,
 2 trying at least to get a deposition of some
 3 people who may have knowledge regarding some of
 4 the subjects listed in the 30B6. And in light
 5 of that, I note you and I have had numerous
 6 discussions relating to trying to find someone
 7 relating to some of these issues. Although
 8 these specific issues probably weren't
 9 identified, we've exchanged several emails
 10 trying to identify these people. And further,
 11 you have agreed that we would discuss further
 12 to identify International Paper individuals
 13 under a 30B6 who may be able to answer some of
 14 the other issues that are identified. Does
 15 that sound somewhat consistent to where we've
 16 been?

17 MR. MIRALGIA: I'm not sure we're going to
 18 go any further than Mr. Stewart but we'll
 19 discuss that after we're done here.

20 MR. BYRNE: Okay.

21 Q. Could you state your full name and spell
 22 your last name?

23 A. Tom Stewart, S-t-e-w-a-r-t.

24 Q. And Mr. Stewart, my name is Mark Byrne and
 25 I represent a number of individuals who were

2 (Pages 2 to 5)

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1 MR. ROBINSON: Yes.

2 MR. MIRALGIA: Okay.

3 Q. Did the union give up anything they were

4 entitled to under that contract?

5 A. Under the terms of the Effects Bargaining

6 Package?

7 Q. Correct.

8 A. No, sir. I think this were all additions

9 to the existing Collective Bargaining Agreement.

10 Q. Why did you agree to pay severance pay to

11 some people?

12 A. Well, it was a matter of company policy,

13 that this is something that we -- that we wanted to

14 do it -- was something that we typically had done in

15 other plant sales and closures. And we certainly

16 didn't want to treat these employees differently.

17 Q. Do you have any employment relationship

18 with the company at this point?

19 A. No, sir.

20 Q. Do you know where Anneta Johnston is now?

21 A. I do not. The last I heard -- and this is

22 like three-year-old information -- is that she was in

23 North Carolina, but I can't tell you, Jim.

24 Q. Okay, thanks.

25 EXAMINATION

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1 BY MR. GROPE:

2 Q. This is Charlie Groppe, I represent Smart

3 Papers in this case. I just have two or three

4 questions for you, if you don't mind.

5 Did anyone from Smart Papers participate

6 in your bargaining with PACE over the effects of the

7 closure of the mill?

8 A. None whatsoever.

9 Q. Did you talk to anyone from Smart Papers

10 about your effects bargaining negotiations with the

11 union?

12 A. No, sir.

13 Q. Did you talk to anyone from Smart Papers

14 before the sale was consummated on February 9th about

15 the union in general?

16 A. No, sir.

17 Q. That's all the questions I've got, thanks.

18 MR. BYRNE: I just have one question and

19 maybe it's more directed at Vinny. Even though

20 Mr. Stewart's not been listed as a witness, he

21 is an individual who has knowledge, at least

22 with regard to these 30B6 issues, as he's been

23 able to testify to, right?

24 MR. MIRALGIA: I guess so. And frankly,

25 I'm not sure he hasn't been listed at least as

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1 a person with knowledge in our initial -- I

2 just don't recall that from three years ago.

3 MR. BYRNE: I can't remember either,

4 Vinny. I think the point is, there's some

5 issues that International Paper was asked about

6 and he was appointed to represent International

7 Paper with respect to those issues.

8 MR. MIRALGIA: Clearly.

9 MR. BYRNE: Okay. That's all I have at

10 the moment, sir. Thank you.

11 THE WITNESS: Thank you.

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TOM STEWART

DEPOSITION CONCLUDED AT 5:59 P.M.

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1 CERTIFICATE

2 STATE OF OHIO :

3 : SS

4 COUNTY OF CLERMONT :

5 I, Jennifer Coats, the undersigned, a duly

6 qualified and commissioned notary public within and

7 for the State of Ohio, do hereby certify that before

8 the giving of his aforesaid deposition, TOM STEWART

9 was by me first duly sworn to depose the truth, the

10 whole truth and nothing but the truth; that the

11 foregoing is the deposition given at said time and

12 place by TOM STEWART; that said deposition was taken

13 in all respects pursuant to stipulations of counsel;

14 that I am neither a relative of nor employee of any

15 of the parties or their counsel, and have no interest

16 whatever in the result of the action; that I am not,

17 nor is the court reporting firm with which I am

18 affiliated, under a contract as defined in Civil Rule

19 28(D).

20 IN WITNESS WHEREOF, I hereunto set my hand and

21 official seal of office at Batavia, Ohio, this ____

22 day of _____, 2005.

23

24 My commission expires: Jennifer Coats

25 February 3rd, 2009. Notary Public - State of Ohio

17 (Pages 62 to 65)